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## WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

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<b>2003 Assembly Bill 370</b>	<b>Assembly Amendment 1</b>
<i>Memo published: September 25, 2003</i> <i>Contact: Mary Matthias, Senior Staff Attorney (266-0932)</i>	

**Current law** provides that a property owner may terminate the tenancy of a tenant if the property owner receives written notice that a nuisance under s. 823.113 (1) or (1m) (b), Stats., exists in the tenant's rental unit or was caused by the tenant on the property owner's property. A building is a nuisance under s. 823.113 (1) or (1m) (b), Stats., if it is used to facilitate the delivery, distribution, or manufacture of a controlled substance or a controlled substance analog, if any of those acts take place in the building, if the building is used as the meeting place of a criminal gang or it is used to facilitate the activities of a criminal gang. If a property owner receives such notice, he or she may terminate the tenancy by giving the tenant written notice requiring the tenant to vacate on or before a date at least five days after giving the notice.

Under current law, a property owner may proceed to terminate a tenancy, as described above, if he or she receives a written notice that a nuisance exists from the **law enforcement agency of a city, town, or village**.

**2003 Assembly Bill 370** expands the law to provide that a property owner may terminate a tenancy based on written notice from a **law enforcement agency as defined in s. 165.83 (1) (b), Stats.** "Law enforcement agency" is broadly defined in s. 165.83 (1) (b), Stats., as follows:

**165.83 (1) (b)** "Law enforcement agency" means a governmental unit of one or more persons employed full time by the state or a political subdivision of the state for the purpose of preventing and detecting crime and enforcing state laws or local ordinances, employees of which unit are authorized to make arrests for crimes while acting within the scope of their authority.

Thus, under the bill, a property owner may terminate a tenancy based on notice provided by any law enforcement agency in the state, not only the law enforcement agency of a city, town, or village. This addresses the fact that there is rental property located in areas of the state outside the jurisdiction of

a city, village, or town.

The bill extends to all law enforcement agencies the current immunity provisions that apply to governmental entities and their officers and employees who, in good faith, act or fail to act to provide a property owner notice that a nuisance under s. 823.113 (1) or (1m) (b) exists on their property.

The bill also creates a provision which states that the law authorizing a landlord to terminate a tenancy based on receiving a nuisance notice of from a law enforcement agency *“does not require the sheriff of Milwaukee County to provide a property owner with the written notice that a nuisance exists under s. 823.113 (1) or (1m) (b).”* **Assembly Amendment 1** deletes this provision. It appears that the language which is deleted by the amendment is of no effect because neither current law, or the bill, require a law enforcement agency to provide notice regarding nuisances. Rather, the law simply provides that if a property owner does receive written notice, he or she may proceed to terminate the tenancy. Current law and the bill leave the decision as to whether a notice will be issued to the discretion of the law enforcement agency. Also, the provision in current law which authorizes a property owner to terminate a tenancy only if they receive **written** notice of a nuisance is unchanged by the bill or amendment.

2003 Assembly Bill 370 was introduced on May 29, 2003, by Representative Wieckert and others; cosponsored by Senator Stepp and others. The bill was referred to the Assembly Committee on Housing, which held a hearing on the bill on June 10, 2003. At its August 28, 2003 Executive Session, the committee introduced Assembly Amendment 1 to the bill by unanimous consent; adopted Assembly Amendment 1 on a vote of Ayes, 5; Noes, 0; and recommended passage of the bill, as amended, on a vote of Ayes, 5; Noes, 0.

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